

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference PI/00541-PCT	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/DE2005/000337	International filing date (<i>day/month/year</i>) 01.03.2005	Priority date (<i>day/month/year</i>) 18.03.2004
International Patent Classification (IPC) or national classification and IPC B60J5/10		
Applicant WILHELM KARMANN GMBH		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of _____ sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input checked="" type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of 6 sheets, as follows: <input checked="" type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/DE2005/000337

Box No. I

Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the **elements** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 3-12 as originally filed/furnished
- pages* 1, 2, 2a, 2b received by this Authority on /filed with the demand
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. _____ as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* 1-9 received by this Authority on /filed with the demand
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/3-3/3 as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/DE2005/000337

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims <u>1-9</u>	YES
		Claims _____	NO
	Inventive step (IS)	Claims <u>1-9</u>	YES
		Claims _____	NO
	Industrial applicability (IA)	Claims <u>1-9</u>	YES
		Claims _____	NO
2.	Citations and explanations (Rule 70.7)		
	Reference is made to the following documents:		
	<p>D1: DE 198 34 850 A1 (DAIMLERCHRYSLER AG) 10 February 2000 (2000-02-10)</p> <p>D2: WO 2005/049354 A (DAIMLERCHRYSLER AG) 2 June 2005 (2005-06-02)</p> <p>D3: DE 200 12 866 U1 (KARMANN GMBH) 2 August 2001 (2001-08-02)</p> <p>D4: EP-A-1 228 914 (KARMANN GMBH) 7 August 2002 (2002-08-07)</p> <p>D5: EP-A-1 386 768 (KARMANN GMBH) 4 February 2004 (2004-02-04)</p>		
	<u>V.2.1. Independent claim 1</u>		
	<u>V.2.1.1 Novelty</u>		
	<p>Document D1, which is considered to be the closest prior art, discloses in the figures and describes in columns 4, 5:</p> <p>- an actuating device for a flap element of a variable convertible-top compartment, comprising at least one</p>		

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

wall element which can be rotated between a first and a second position.

The subject matter of present claim 1 differs therefrom in that

- the actuating device comprises a fixedly mounted spring element which, when the wall element rotates between its first and second position, passes through a point of maximum elastic deformation by interacting with the wall element and which, in the first and second position, assumes a substantially unloaded state.

The subject matter of present claim 1 therefore appears to satisfy the criterion in PCT Article 33(2) because the subject matter of the only independent claim, claim 1, is novel in relation to the prior art as described in the Regulations (PCT Rule 64.1-64.3).

V.2.1.2. Inventive step

Proceeding from the stated prior art, the problem addressed by the present invention can therefore be considered that of developing an actuating device for a flap element of a variable convertible-top compartment according to the preamble of independent claim 1 in such a way that it is more compact and requires less installation space.

The solution corresponding to claim 1 does not appear to be known from any of the documents coming within the

Box No. V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement

procedure when considered individually or to be suggested from the prior art as a whole.

The subject matter of present claim 1 therefore appears to satisfy the criterion in PCT Article 33(3) because the subject matter of claim 1 appears to involve an inventive step (PCT Rule 65.1 and 65.2).

V.2.2. Dependent claims 2-9

Dependent claims 2-9, which relate to further embodiments of the invention according to claim 1, also appear to meet the requirements of PCT Article 33(2) to (4).